



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,855	11/20/2006	Sandro Quadrelli	112701-685	2135

29157 7590 01/26/2010
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER

BYRD, LATRICE CHENELL

ART UNIT	PAPER NUMBER
----------	--------------

3782

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

01/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary	Application No. 10/556,855	Applicant(s) QUADRELLI, SANDRO	
	Examiner LATRICE BYRD	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-18, 20-32, 36, 37, 47-51, 63-71, 81, 82, 86-92 and 95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-18, 20-32, 36, 37, 47-51, 63-71, 81, 82, 86-92 and 95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/14/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 18 is objected to because of the following informalities: “losing wall” in line 2 should be “closing wall”. Appropriate correction is required.
2. Claims 20 and 47-49 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 20 and 47 depend on cancelled claims 19 and 44 respectively. For purpose of examination, claim 20 and 47-49 will be dependent on claim 1.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 89 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not understood how a “blank” as claimed is capable of having a panel glued to another panel. It is not made clear if the blank itself is being claimed or a container.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 4-6, 16-17, 20-21, 24-25, 47-49, 63, 66-68, 70-71, 75, and 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Field (USPN 4,913,292).

7. In re claim 1, Field discloses a container for holding a product comprising a retaining body and side product retaining means (11-14) and at least one outlet opening (53) through which the product comes out; the container body having a tubular shape with a polygonal base and closing means (56) comprising a longitudinal wall for closing the product outlet opening, the closing means extending from the container body and being connected to it, the container body further comprising stiffening means (30) for maintaining the container body in an open condition, the stiffening means located at, and forming at least a portion of, the outlet opening, the stiffening means being connected to at least one outer wall of the container.

8. In re claim 2, Fields discloses a container wherein the container body has a polygonal base.

9. In re claim 4, Fields discloses a container wherein the container body has a polygonal base with regular sides.

10. In re claim 5, Fields discloses a container wherein the container body comprises a front wall.

Art Unit: 3782

11. In re claim 6, Fields discloses a container wherein the container body comprises a rear wall.

12. In re claim 16, Fields discloses a wherein the closing means comprise a closing wall which extends transversally.

13. In re claim 17, Fields discloses a container wherein the closing wall of the closing means is flat.

14. In re claim 20, Fields discloses a container wherein the longitudinal wall of the closing means is a front wall.

15. In re claim 21, Fields discloses a container wherein the closing means comprises a first and a second side outer wall.

16. In re claim 24, Fields discloses a container comprising connecting means between the closing means and the container body.

17. In re claim 25, Fields discloses a container wherein the connecting means comprise a line for connection and rotation relative to a corresponding container body outer wall.

18. In re claim 47, Fields discloses a container wherein the stiffening means are located at one end of the container body.

19. In re claim 48, Fields discloses a container wherein the stiffening means comprise at least one portion extending transversally to the container body.

20. In re claim 49, Fields discloses a container comprising a single transversal panel extending from one end of an outer wall and forming the stiffening means.

Art Unit: 3782

21. In re claim 63, Fields discloses a container comprising means for covering the opening in the container body.

22. In re claim 66, Fields discloses a container wherein the means for covering the opening consist of a transversal panel.

23. In re claim 67, Fields discloses a container comprising opening means with predetermined size.

24. In re claim 68, Fields discloses a container wherein the predetermined opening is suitable for allowing a passage of a predetermined number of pieces of product at a time.

25. In re claim 70, Fields discloses a container wherein the product outlet opening has a predetermined shape and dimensions suitable for the passage of only one piece of product held in the container at a time.

26. In re claim 71, Fields discloses a container wherein the product outlet opening extends from a front side of the container body.

27. In re claim 75, Fields discloses a container comprising stiffening means for the container in the closed condition.

28. In re claim 82, Fields discloses a container wherein the closing means comprises a lid extending from the container body and being connected to it for closing the product outlet opening.

29. Claims 1-13, 16-18, 20-32, 36-37, 47-48, 63-70, 74-75, 81-82 , 86-92, and 95 are rejected under 35 U.S.C. 102(b) as being anticipated by Swan (USPN 4,205,775).

Art Unit: 3782

30. In re claim 1, Swan discloses a container for holding a product comprising a retaining body (102) and side product retaining means and at least one outlet opening (108) through which the product comes out; the container body having a tubular shape with a polygonal base and closing means (152) comprising a longitudinal wall (186) for closing the product outlet opening, the closing means extending from the container body and being connected to it, the container body further comprising stiffening means (154) capable of maintaining the container body in an open condition, the stiffening means located at, and forming at least a portion of, the outlet opening by way of 162, the stiffening means being connected to at least one outer wall (180) of the container.

31. In re claim 2, Swan discloses a container wherein the container body has a polygonal base.

32. In re claim 3, Swan discloses a container wherein the container body has a hexagonal base.

33. In re claim 4, Swan discloses a container wherein the container body has a polygonal base with regular sides (116).

34. In re claim 5-11, Swan discloses a container wherein the container body comprises a front wall (106c), a rear wall (106f), a pair of front side walls (106a,106e) extending from the sides of the front wall, a pair of rear side walls (106b,106d) extending from the sides of the rear wall and joined to the front side walls.

35. In re claim 12, Swan discloses a container comprising at least one outer wall forms an obtuse angle with an adjacent outer wall.

Art Unit: 3782

36. In re claim 13, Swan discloses a container comprising a base wall (114) for retaining the product in the container.

37. In re claims 16-18, Swan discloses a container wherein the closing means comprises a closing wall (180) which extends transversally from a rear wall (106c) is flat.

38. In re claim 20, Swan discloses a container wherein the closing means comprises a longitudinal wall (186) which is a front wall.

39. In re claims 21-22, Swan discloses a container wherein the closing means comprises first and second side outer walls (184,188) which are front side walls.

40. In re claim 23, Swan discloses a container wherein the closing means forms an obtuse angle with an adjacent outer wall.

41. In re claims 24-25, Swan discloses a container comprising connecting means (178) between the closing means and the container body wherein the connecting means comprise a line for connection and rotation relative to a corresponding container body outer wall.

42. In re claim 26, Swan discloses a container comprising retaining means (180) for holding the closing means closed.

43. In re claim 27, Swan discloses a container wherein the retaining means for holding the closing means closed comprise engagement means (184,188) located on the closing means.

44. In re claim 28, Swan discloses a container wherein the engagement means on the closing means comprise at least one engagement tooth (184f,188f).

Art Unit: 3782

45. In re claims 29 and 31, Swan discloses a container wherein there is a first and a second tooth (184f,188f), each extending from a corresponding side wall (184,188) of the closing means being a front side wall.

46. In re claims 30 and 32, Swan discloses a container wherein the engagement tooth is at a front outer wall (186) of the closing means.

47. In re claim 32, Swan discloses a container wherein the engagement tooth is on an inner face of the front wall (186) of the closing means.

48. In re claim 36, Swan discloses a container wherein the retaining means on the closing means operate in conjunction with engagement means on the container body.

49. In re claim 37, Swan discloses a container wherein the engagement means (184,188) on the container body comprise an engagement tooth or tab (184f,188f).

50. In re claim 47, Swan discloses a container wherein the stiffening means are located at one end of the container body.

51. In re claim 48, Swan discloses a container wherein the stiffening means comprise at least one portion extending transversally to the container body.

52. In re claim 63, Swan discloses a container comprising means for covering the opening (180) in the container body.

53. In re claim 64, Swan discloses a container wherein the means for covering the opening extend from a side wall (106c) of the container body.

54. In re claim 65, Swan discloses a container wherein the means for covering the opening extend from a rear side wall (15) of the container body.

Art Unit: 3782

55. In re claim 66, Swan discloses a container wherein the means for covering the opening consist of a transversal panel (180).

56. In re claim 67, Swan discloses a container comprising opening means (162) with predetermined size.

57. In re claim 68, Swan discloses a container wherein the predetermined opening is suitable for allowing a passage of a predetermined number of pieces of product at a time.

58. In re claim 69, Swan discloses a container wherein the product outlet is made in a transversal stiffening wall (154).

59. In re claim 70, Swan discloses a container wherein the product outlet opening has a predetermined shape and dimensions suitable for the passage of only one piece of product held in the container at a time.

60. In re claim 74, Swan discloses a container comprising transversal wall (180) for stiffening and/or covering is fixed to a front wall (106c) of the container body at two container points or opposite side sections of the container body.

61. In re claim 75, Swan discloses a container comprising stiffening means (180) for the container in the closed condition.

62. In re claim 81, Swan discloses a container wherein the container body has a wall (184,188) supporting a lid engagement means (184f,188f), which is connected at to at least one side wall (106c), forming an angle other than 90° with said wall.

Art Unit: 3782

63. In re claim 82, Swan discloses a container wherein the closing means comprises a lid (180) extending from the container body and being connected to it for closing the product outlet opening.

64. Claims 86-92 and 95 are rejected under 35 U.S.C. 102(b) as being anticipated by Marx et al. (USPN 5,887,781).

65. In re claim 86, Marx et al. discloses a blank (100) for making a container consisting of a container body with an outlet opening through which the product contained in it comes out and a lid for closing the product outlet opening, the blank consisting of a flat sheet, comprising a plurality of panels (111-116) forming outer walls of the container body, separated from one another by transversal pre-creasing or fold lines (117-121), the blank also comprising an upper panel (30) extending from a transversal end of a side panel (113) to form a lid upper wall; the upper panel forming the lid upper wall has a polygonal profile, having a first and a second outer edge (27a,27c) on a side opposite that from which the upper panel forming the lid upper wall extends; a first and a second outer panel (26a,26c) forming lid side walls, the side walls extending from the first and second outer edges, on the side opposite the one on which the upper panel is connected to the transversal end of the side panel of the container body, the blank further comprising tabs extending (34,39,43,48), through pre-creasing or fold lines (36,37,45,46), from rear and front side walls (111,112,114,115) of the container, forming means for connecting a transverse stiffening wall (23,24) to the front side walls and to the rear side walls of the container body.

Art Unit: 3782

66. In re claim 87, Marx et al. discloses a blank wherein the panel forming the lid upper wall has a hexagonal profile.

67. In re claim 88, Marx et al. discloses a wherein the upper panel forming the lid upper wall has a hexagonal profile with regular sides.

68. In re claim 90, Marx et al. discloses a blank wherein the stiffening wall extends from a transversal end of an outer wall (116) of the container body.

69. In re claim 91, Marx et al. discloses a blank comprising a panel forming a side or front longitudinal wall (26b) of the lid, extending from the panel (30) forming the lid upper closing wall, through a pre-creasing or fold line (27b) on the side opposite that from which the panel extends from the outer panel of the container body.

70. In re claim 92, Marx et al. discloses a blank comprising a first and a second panel (292,29b) forming a respective retaining tooth for holding the lid on the container body, the teeth each extending from a panel (184,188) forming lid front side walls, to which they are connected by fold or pre-creasing lines (184g,188g).

71. In re claim 95, Marx et al. discloses a blank wherein a stiffening panel (23) has a shaped edge.

Claim Rejections - 35 USC § 103

72. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

73. Claims 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swan (USPN 4,205,775) in view Bayless (USPN 2,000,210).

74. In re claims 49-51, Swan fails to disclose the transversal panel for forming the stiffening wall extending from a rear or front outer panel. However, Bayless teaches extending a stiffening wall from an outer panel. It would have been obvious to one of ordinary skill in the art to have had the stiffening wall of Swan attached to one of the outer panel walls as taught by Bayless as a means to insure a thoroughly tight, leak-proof container.

75. Claim 89 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marx et al. (USPN 5,887,781) in view Bayless (USPN 2,000,210).

76. In re claim 89, Marx et al. discloses the claimed invention except the other side panel being glued to a rear panel. However, Bayless teaches a blank which is oriented for a rear panel to be glued to another side panel. It would be obvious to one of ordinary skill in the art to have oriented the blank of Marx et al. as taught by Bayless since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Response to Arguments

77. Applicant's arguments with respect to claims 1 and 86 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

78. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782